
Finance Committee

HB 2580

Brief Description: Providing excise tax relief for persons that process canned salmon.

Sponsors: Representatives Upthegrove, Schual-Berke, P. Sullivan, Simpson and McCune.

Brief Summary of Bill

- Creates a new classification under the Business and Occupation tax with a rate of 0.484 percent for persons that inspect, test, and label canned salmon owned by another person.
- Exempts businesses under the new classification from paying retail sales and use taxes on materials used in the labeling or packaging of canned salmon.

Hearing Date: 1/24/06

Staff: Mark Matteson (786-7145).

Background:

Retail sales and use tax and business and occupation tax. The retail sales tax applies to the selling price of tangible personal property and of certain services purchased at retail. The use tax applies if retail sales tax has not been collected. Both the state and local governments impose sales and use taxes; the state rate is 6.5 percent and the average local rate is 2 percent statewide. Sales taxes are collected by the seller from the buyer at the time of sale. Use tax is remitted directly to the Department of Revenue. State revenues are deposited to the State General Fund.

The Business and Occupation (B&O) tax is imposed on the gross receipts of business activities conducted within the state, without any deduction for the costs of doing business. A business may have more than one B&O tax rate, depending on the types of activities conducted. For example, the rate for persons that conduct warehousing, manufacturing, or processing for hire activities is 0.484 percent. The rate for persons that provide services, in general, is 1.5 percent.

Taxability of manufacturers and processors for hire. One of the classifications under the B&O tax is for manufacturing activity. Persons are considered manufacturers if the person owns or has title to the item or product that is being manufactured. Persons are considered processors for hire if the person does not own the item or product that is being manufactured but rather performs the manufacturing activity on behalf of the owner. Manufacturing and processing for hire are treated similarly in many instances under state tax law.

Persons who engage in manufacturing or processing for hire are eligible for several tax preferences under the B&O and retail sales and use taxes. Sales to these persons of property that becomes part of the manufactured item are considered sales for resale, since the final manufactured product is presumed to be produced for sale, and so are not subject to retail sales and use tax. In addition, packaging materials that are sold to these persons are also considered sales for resale and so retail sales and use taxes do not apply. In 1995, manufacturers and processors for hire were provided an exemption from retail sales and use taxes on the purchase or acquisition of machinery and equipment (M&E) that is used directly in the manufacturing or processing process. The exemption is also available to persons who perform testing on products for others who are manufacturers or processors for hire.

Salmon labeling industry. Several firms are located in Washington that store, inspect, test, and label canned salmon that was canned outside of Washington. These firms store in warehouses the canned salmon, owned by the out-of-state salmon-canning companies. When receiving appropriate instructions from the owner, the labeler will select a particular batch and inspect, weigh, and vacuum test the cans. The labeler will then label all cans that have passed inspection and package the cans in boxes to be shipped to customers of the salmon-canning companies.

In September 2005, the Department of Revenue issued an Excise Tax Advisory (ETA) concerning firms that store, inspect, test, and label canned salmon owned by others. The Advisory provides that the activity of inspecting, testing, and labeling of canned salmon falls under the general service classification of the B&O tax and so is subject to a 1.5 percent rate; the storage of the cans is subject to the warehousing rate of 0.484 percent. Before the issuance of the ETA, at least two taxpayers had been reporting the activities other than warehousing under the processing for hire classification at a 0.484 percent rate. The ETA also clarified that the firms conducting the testing activities were eligible for the M&E exemption from sales and use taxes on machinery and equipment used directly to inspect and test the cans. Finally, the ETA provided that retail sales and use taxes were due on sales of labels and packaging materials to the labelers.

Summary of Bill:

Persons who inspect, test, and label canned salmon owned by others are subject to B&O tax at a 0.484 percent rate. Such persons are also exempt from paying retail sales and use taxes on materials used to label canned salmon and on materials used to package canned salmon.

Appropriation: None.

Fiscal Note: January 10, 2006.

Effective Date: Sections 1, 3 and 4 are effective July 1, 2006, and section 2 becomes effective contingent on the expiration of section 1.